

# **EXHIBIT 3**

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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - MIDDLESEX COUNTY  
DOCKET NO.: MID-L-7781-07  
- - -

H.P. DELTA, INC.,	)	DEPOSITION UPON
Plaintiff	)	
	)	ORAL EXAMINATION
vs.	)	
	)	OF
ROBERT MELECCI,	)	
Defendant/Third	)	ROBERT MELECCI
Party Plaintiff,	)	
	)	
vs.	)	
	)	
DHANDI TRANSPORT, INC.,	)	
Third Party	)	
Defendant.	)	
- - - - -		

TRANSCRIPT OF DEPOSITION, taken by and  
before BETH STRAUSS, Professional Shorthand Reporter  
and Notary Public, at the LAW OFFICES OF LEARY,  
BRIDE, TINKER & MORAN, P.C., 7 Ridgedale Avenue,  
Cedar Knolls, New Jersey, on November 24, 2008,  
commencing at 10:30 a.m.

- - -  
ERSA COURT REPORTERS  
30 SOUTH 17TH street  
UNITED PLAZA - SUITE 1520  
PHILADELPHIA, PA 19103  
PHONE (215) 564-1233  
- - -

ROBERT MELECCI

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1 Mr. Ambrosio dated August 28, 2006, "Dear Mr. Singh:  
2 This letter is to advise you that I have been  
3 retained by your landlord Robert Melecci to deal  
4 with the problems relating to the gasoline spill due  
5 to the negligence of Dhandi Transport, Inc.

6           Apparently the spill occurred when the  
7 employees of the transporter were in the process of  
8 delivery fuel oil at the premise which Delta leases  
9 from Mr. Melecci."

10           Do you know what negligence of Dhandi  
11 Mr. Ambrosio is talking about?

12 A.           Of spilling gas when being dispensed from  
13 the trailer to the ground.

14 Q.           Did you ever see them spilling gas?

15 A.           Yes.

16 Q.           How often?

17 A.           Every time.

18 Q.           And how much was spilled?

19 A.           I couldn't tell you.

20 Q.           Well, I mean, are we talking about  
21 truckloads or are we talking about a few gallons?

22 A.           I would not know.

23 Q.           How big are the -- you said that each hole  
24 was a bucket that collects overfill of gasoline; is

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1 that right? Each of your tanks?

2 A. Yes.

3 Q. About how many gallons does each of those  
4 buckets hold; do you know?

5 A. I believe they're five gallons.

6 Q. So each tank can hold an overflow of about  
7 five gallons; is that right?

8 A. Yes.

9 Q. And when you say they spilled gas every  
10 time, were you there every time that they came to  
11 deliver?

12 A. Every time I seen 'em, yes.

13 Q. And how often would that be?

14 A. I'd say at least 60 percent of the time.

15 Q. And how often are they at the site, do you  
16 know?

17 A. I couldn't tell you.

18 Q. I mean, you're not responsible for  
19 requesting fuel from Dhandi, right?

20 A. No.

21 Q. That was H.P. Delta's responsibility, right?

22 A. Yes.

23 Q. You don't know how often they were there, do  
24 you?

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1 A. Well, like if I made a deal with Citgo or  
2 whatever, they had their own truckers come.

3 Q. And when they came, did you ever watch any  
4 of their truckers have any blow-back or spill any  
5 fuel?

6 A. No.

7 Q. Ever?

8 A. Never.

9 Q. When there was blow-back when Dhandi was  
10 delivering, did it go into the overfill bucket?

11 A. No.

12 Q. Why not?

13 A. Because they blew it out the vent pipes.

14 Q. And where were the vent pipes located in  
15 relation to where they were filling them? And mark  
16 on Melecci-1 with a letter C where the vent pipes  
17 are.

18 A. Right here.

19 Q. So you have marked on Melecci-1 with the  
20 letter C the vent pipes to your five tanks?

21 A. Yes.

22 Q. And when they would overfill, the fuel would  
23 come out the vent pipe. Is that what you're telling  
24 me?

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1 A. Yes.

2 Q. About how far away are the vent pipes from  
3 area B that has been delineated here in terms of  
4 feet if you know?

5 A. Twenty-five feet.

6 Q. Okay. So the vent pipe blow-back that  
7 you're talking about occurs 25 feet from area B  
8 which has been identified by the DEP as the area of  
9 concern; is that right?

10 A. Yes.

11 Q. Did they spill anything onto the concrete or  
12 the hard surfaces?

13 A. Yes.

14 Q. The vent pipes, are they surrounded by  
15 concrete or any hard surfaces?

16 A. No.

17 Q. What's around them?

18 A. Crushed stone.

19 Q. And how much approximately came out of the  
20 vent pipes?

21 A. I couldn't tell you. As far as gallons you  
22 mean?

23 Q. Well, are we talking about a lot or a  
24 little?

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1 Q. This guy here, Gurmail Singh?

2 A. Yes.

3 MR. JONES: Let's mark this as  
4 Melecci-4.

5 (Document dated January 22, 2007  
6 received and marked as Melecci-4 for  
7 Identification.)

8 BY MR. JONES:

9 Q. Mr. Melecci, I'm showing you what has been  
10 marked as Melecci-4. It's a January 22nd, 2007  
11 letter written by your attorney, Mr. Ambrosio, to  
12 Stuart Lieberman, Esquire.

13 Do you ever recall seeing this letter?

14 A. Yes.

15 Q. And what was the content of this letter or  
16 the subject of this letter?

17 A. The reason for spill.

18 Q. Okay. And it reports that from the letter,  
19 "This letter is to advise you that on Wednesday,  
20 January 17, 2007, my client, Robert Melecci, the  
21 owner of Rob's Towing Service observed a delivery  
22 being made sometime in the afternoon by your  
23 client's gasoline transportation delivery service.  
24 During the delivery, gasoline spilled on the ground

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1 and pooled underneath the truck."

2 Do you recall this incident?

3 A. Yes.

4 Q. Do you have an idea of about how much  
5 gasoline spilled?

6 A. Yes.

7 Q. When you say it pooled underneath the truck,  
8 was anything done to clean it up?

9 A. No. Well, actually, yeah. He kicked snow  
10 on it so I wouldn't see it.

11 MR. PENTANGELO: Who is the he?

12 THE WITNESS: The driver.

13 BY MR. JONES:

14 Q. Were you watching him do all of this?

15 A. I just happened to come in off the road from  
16 a tow, and I seen the truck, and the first thing I  
17 do is look over to see if they got the vapor covered  
18 'cause they only opened up.

19 Q. What do you mean only opened up?

20 A. They came back. They closed down for a  
21 couple months.

22 Q. Dhandi was?

23 A. No, H.P.

24 Q. Okay.



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1 A. And then I was watching 'em, and I noticed  
2 all fuel underneath the trailer.

3 Q. Okay.

4 A. And I told 'em, I says you got to do  
5 something here, we got problems, and he just turned  
6 around and kicked snow on it and left.

7 Q. Did you do anything to clean it up  
8 afterwards?

9 A. I told the gas pumper.

10 Q. And did he do anything?

11 A. Notified the boss.

12 Q. And did they do anything?

13 A. No.

14 Q. Was the fire department ever called?

15 A. I don't know, no.

16 Q. How big of a spill are we talking about  
17 underneath the truck? How much fuel?

18 A. I couldn't tell you that.

19 Q. Did you believe it was a hazard just from a  
20 safety standpoint?

21 A. I just notified them and let them know  
22 that --

23 Q. Right, I understand that, but did you  
24 believe at the time that it was a safety hazard?

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1 Was it enough fuel to create a concern in your mind  
2 that I got gasoline laying over here?

3 A. Yes.

4 Q. And did you do anything about it? Other  
5 than to call various people to tell them about it,  
6 did you take any kind of remediation efforts?

7 A. No.

8 Q. Did you get a cloth out there or contact  
9 anybody to clean it up? Just H.P. Delta and your  
10 attorney?

11 A. Yes.

12 Q. Okay.

13 A. And they would get in contact with the  
14 driver.

15 Q. But nothing was done to the best of your  
16 knowledge?

17 A. No.

18 Q. Okay. Prior to August of 2006, did you  
19 report any of these spills -- strike that.

20 Did you see spills by Dhandi prior to August  
21 of 2006?

22 A. Yes.

23 Q. While delivering?

24 A. Yes.